

# SENATE RECORD VOTE ANALYSIS

106th Congress  
1st Session

**Vote No. 121**

May 18, 1999, 4:00 p.m.  
Page S-5473 Temp. Record

## JUVENILE JUSTICE/No School Ban on Religious Memorials for Slain Students

**SUBJECT:** Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999 . . . S. 254. Lott (for Allard) amendment No. 351.

### ACTION: AMENDMENT AGREED TO, 85-13

**SYNOPSIS:** As introduced, S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999, will modernize Federal grant programs that give aid to State and local governments for juvenile law enforcement and juvenile crime prevention efforts. Approximately \$1 billion per year for the next 5 years will be authorized for those grant programs. Also, \$100 million annually will be authorized for joint Federal-State-local efforts to address gang-related juvenile crime.

**The Lott (for Allard) amendment** would enact the following: "The Congress of the United States finds that the saying of a prayer, the reading of a scripture, or the performance of religious music as part of a memorial service that is held on the campus of a public school in order to honor the memory of any person slain on that campus does not violate the First Amendment to the Constitution of the United States, and that the design and construction of any memorial that is placed on the campus of a public school in order to honor the memory of any person slain on that campus a part of which includes religious symbols, motifs, or sayings does not violate the First Amendment to the Constitution of the United States." The amendment would also provide that for any lawsuit claiming that any such memorial described above violated the First Amendment, each party to that lawsuit would be required to pay its own attorney's fees and costs, and the Attorney General would be authorized to provide legal assistance to the school district or other government entity that was being sued over the memorial.

**Those favoring** the amendment contended:

In recent decades we believe that the constitutional prohibition on the establishment of religion has been radically misinterpreted to demand government hostility to religion. Unless we adopt the Allard amendment, it is very likely that it will soon be

(See other side)

YEAS (85)				NAYS (13)		NOT VOTING (2)	
Republican (54 or 100%)		Democrats (31 or 70%)		Republicans (0 or 0%)	Democrats (13 or 30%)	Republicans (1)	Democrats (1)
Abraham	Hutchinson	Akaka	Johnson		Bingaman	Brownback- <sup>2</sup>	Moynihan- <sup>2AN</sup>
Allard	Hutchison	Baucus	Kennedy		Boxer		
Ashcroft	Inhofe	Bayh	Kerry		Durbin		
Bennett	Jeffords	Biden	Kohl		Feingold		
Bond	Kyl	Breaux	Landrieu		Harkin		
Bunning	Lott	Bryan	Lieberman		Hollings		
Burns	Lugar	Byrd	Lincoln		Kerrey		
Campbell	Mack	Cleland	Mikulski		Lautenberg		
Chafee	McCain	Conrad	Reid		Leahy		
Cochran	McConnell	Daschle	Robb		Levin		
Collins	Murkowski	Dodd	Rockefeller		Murray		
Coverdell	Nickles	Dorgan	Sarbanes		Reed		
Craig	Roberts	Edwards	Schumer		Wellstone		
Crapo	Roth	Feinstein	Torricelli				
DeWine	Santorum	Graham	Wyden				
Domenici	Sessions	Inouye					
Enzi	Shelby						
Fitzgerald	Smith, Bob						
Frist	Smith, Gordon						
Gorton	Snowe						
Gramm	Specter						
Grams	Stevens						
Grassley	Thomas						
Gregg	Thompson						
Hagel	Thurmond						
Hatch	Voinovich						
Helms	Warner						

**EXPLANATION OF ABSENCE:**

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

**SYMBOLS:**

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

misinterpreted again, this time in a way that will be cruel to the families of the victims of the Columbine High School massacre. Many of those victims were deeply religious. In fact, some of them were killed because of their faith. Any tribute to them, whether on school grounds or off, would be incomplete without recognizing and respecting their belief in God. The father of Cassie Bernall, one of the students who was murdered because of her faith, has written to us about the problems that he and his wife are having in establishing a fitting memorial for their daughter on school grounds: "Our Cassie was the young woman who boldly answered to a gunman "yes" when he asked if she believed in God, prompting him to pull the trigger. . . . It was from her strong faith in [Jesus Christ] and His promise of eternal life that she was empowered to make her stand. My wife . . . and I both believe any Columbine incident memorial should memorialize each individual in a personal way. Everyone knows . . . that Cassie was a very strong Christian. To leave this facet of her persona out would be to mis-memorialize her and others." We strongly agree, but a few radical groups are ready to claim that any admittance on public grounds that a murder victim believed in God would constitute an effort to establish an official religion or religious beliefs. They will demand a distortion of reality; they will demand that every official, every official act, and every official memorial must carefully hide any religious belief or motivation. These groups are well-funded, and they often are able to intimidate schools and local governments with the threat of expensive, lengthy lawsuits that can become even more expensive if a judge ends up ordering them to pay the legal fees of the plaintiffs. In order to remove part of that coercive threat, the Allard amendment would provide that if public schools used religious references in memorials to slain students they could not be ordered to pay the attorney fees and costs of anyone who sued them because of those references. Also, the amendment would authorize the Attorney General to give legal help to any school that was sued over such religious references. This amendment is not about establishing an official religion; it is about showing common human decency and respect for the beliefs of the victims of school violence and their families. We urge our colleagues to accept this amendment.

**Those opposing** the amendment contended:

We respect our colleagues' motivations in offering this amendment, but their proposal is unacceptable. First, its finding on what would constitute permissible religious expression at a public function is far too sweeping. We think that it could allow clearly unconstitutional behavior. Second, it arbitrarily singles out memorials for victims who are slain on the campus of a public school. Why should special rules apply for this one particular class of victims? Third, we believe that this amendment would violate the constitutional requirement that the Government be neutral in matters of religion. Under this amendment, if someone were to sue a school because he or she thought that the school was unconstitutionally barring religious expression, a judge who ruled in favor of that person could order the school to pay the person's legal costs, but if someone were to sue objecting to religious expression in a school memorial, that person could not recover his or her legal costs no matter what the decision. Again, we understand our colleagues' motivations, but we cannot support this amendment.